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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/810,620	02/28/97	HICKMAN	

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EXAMINER	
~~TITCOMB WILLIAM~~	

ART UNIT	PAPER NUMBER
~~2757~~	4

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

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Office Action Summary	Application No. 08/810,620	Applicant(s) Hickman
	Examiner William Titcomb	Group Art Unit 2757

☒ Responsive to communication(s) filed on *2-28-97*.

☐ This action is **FINAL.**

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire *3* month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) *1-20* is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) *1-20* is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐approved ☐disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). *2*

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Part III DETAILED ACTION

Drawings

1. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

Specification

2. Claims 1-20 are presented for examination.

3. The cross references related to the application cited in the specification must be updated (i.e., on page 1, lines 15 and 20, the Attorney Docket Number for these applications should be changed to U.S. Patent Serial Numbers).

4. Applicant is suggested to number the lines of each claim. The preferred format is to number each line of every claim, with each claim beginning with line 1. For ease of reference by both the Examiner and Applicant all future correspondence should include the recommended line numbering.

Claim Objections

5. Claims 17 and 18 are objected to because of the following informalities:

As per claims 17, and 18, Applicant claims a computer readable media as shown on line 1. However, the claim is not structured to specifically associate the executable programs instructions with the functions being performed, such that there is no doubt that the instructions performing these functions are stored on the computer readable medium. Such an association will eliminate any possible ambiguities that may lead to possible 35 U.S.C. 101 problems regarding computer programs. The Examiner suggests that if the Applicant is trying to claim a product claim, the following example may be used:

(A compute program product comprises a computer useable medium having computer readable program code embodied on said medium for ...having ..., said computer program product comprising:

detection procedure code means ...)

Appropriate correction is required.

Double Patenting

5. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

6. Claims 1-20 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-20 of copending Application No. 08/798,704. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

7. Claims 1-20 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-20 of copending Application No. 08/797,787. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

8. Claims 1-20 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-20 of copending Application No. 08/808,882. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless --
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who

has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

10. Claims 1-5 and 7-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Templeton et al., U.S. Patent Number 5,692,126.

In regards to claim 1, Templeton et al. teaches a computer network system, substantially as claimed, comprising:

- a plurality of network accessible computers, each including a central processing unit and non-volatile memory, coupled to a network, implementing host computer programs which permit the network accessible computers to operate as host computers for client computers connected to said network, whereby input devices of said client computers can be used to generate inputs to host computers (see, FIG. 2, items 44, 46, 48, 50, and 66);
- such that image information generated by said hosts can be viewed by said client computers (see, col. 8, lines 52-55); and
- a cluster administration computer coupled to network accessible computers to monitor the operation of network accessible computers (see, col. 6, lines 4-28).

In regards to claims 2-5, 7-12, and 14-18, Templeton et al. teaches:

- a plurality of network accessible computers, each coupled to network by communications channels (see, FIG. 2, items 78, 82, and 88) satisfying claim 2;
- each including volatile memory and data bus controllers (see, col. 5 and 6, lines 66-3) satisfying claim 3;

- a cluster computer system as recited in claim 1 wherein said network is a TCP/IP protocol network (see, col. 4, lines 27-28); and
- host computer means responsive to keyboards and pointing devices of clients as transmitted to hosts over said TCP/IP protocol network under the control of client programs running on said client computers, and host programs transmitting image information to client computers over said TCP/IP protocol network for display in browser windows of browser programs running on client computers (see, col. 8, lines 50-55) satisfying claim 4;
- client programs are transmitted to client computers over said TCP/IP protocol network (see, col. 4, lines 27-28) satisfying claim 5;
- cluster administration computer is operative to control at least one function of said network accessible computers (see, col. 6, lines 4-6) satisfying claim 7;
- cluster administration computer can reset a selected network accessible computer (see, col. 6, lines 4-6, and col. 8, lines 57-65) satisfying claims 8, 16 and 17;
- cluster administration computer is coupled to network to receive inputs from other computer systems coupled to network (see, FIG. 2, items 56 and 58) satisfying claim 9;
- cluster administrative computer servers coordinate the sharing of at least one local resource by network accessible computers (see, col. 8, line 61) satisfying claim 10;
- one local resource is a data storage device (see, col. 6, lines 10-11) satisfying claim 11;

- cluster administrative computer is running a cluster administrative program which administers the connection of a client computer to a host computer (see, col 6., lines 8-9) satisfying claim 12;

As per claim 13, Templeton teaches a system substantially as claimed, as discussed above, and for providing access to host computers by client computers over a computer network comprising:

  - receiving a request for a host computer coupled to a computer network from a client computer coupled to computer network from a client such that after said client computer becomes associated with a host, an input device can be used to generate inputs to host, such that image information generated by host can be viewed by client due to host program means; and
  - determining a suitable host for client (see, col. 6, lines 11-24);

- determining a suitable host computer further including loading a personal state of a client, and comparing those requirements to characteristics of available hosts (see, col. 6, lines 11-24) satisfying claim 14;
- loading a personal state of a client into network accessible computer that will serve as a host (see, col. 6, lines 7-11) satisfying claim 15; and
- informing client of network address of host whereby client can be associated with host discussed above in regards to claim 13 and (see, col. 6, lines 11-24) satisfying claim 18.

11. Claims 19 and 20 are rejected under 35 U.S.C. 102(e) as being unpatentable over Fielden et al., U.S. Patent Number 5,581,390.

As per claims 19 and 20, Fielden teaches apparatus and method for conveying frame timing, data timing, and data between remotely located positions, substantially as claimed, including:

- at least one ground station capable of transmitting and receiving TCP/IP compatible data packets and being coupled to a TCP/IP network to exchange TCP/IP packets (see, col. 4, line 23);
- non geo-synchronous earth-orbiting bodies capable of transmitting and receiving TCP/IP compatible data packets, where at least one earth-orbiting body can communicate with at least one ground station at any time (see, col. 3, lines 19-21 and 53-58); and
- non geo-synchronous earth-orbiting bodies include low earth-orbiting satellites that communicate with TCP/IP compatible data packets, communicating both with said ground station and with at least one other satellite, handing off communication with said ground station to a satellite that is in a best position to communicate with said ground station (see, col. 3, lines 53-58).

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103 c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

13. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Templeton in view of van Hoff et al., (ISBN: 0-201-48837-X). Templeton discloses a system enabling high speed transmission of voice, image and data, as discussed above.

Although the system disclosed by Templeton shows substantial features of the claimed invention, as discussed above, it does not disclose the specific limitation of Java Applet client program adapters, as advanced in the claimed invention. Nevertheless, such limitations would have been an obvious modification to Templeton, as evidenced by van Hoff et al. Van Hoff, in a

text book for an analogous art, discloses an Java Applet adapter. Van Hoff discloses that Java Applets became useful as the World Wide Web evolved from a text-based interface into an image-enriched interface including text and data (see, page 8, paragraph 2, line 2). Van Hoff further discusses Java's popularity and widespread use as a platform-neutral, programming language. Java programing language is used to create an adapter, i.e., a Java Applet, which will operate in a non-native environment, allowing an Internet user access to visual information and data resident on different operating systems. Therefore, the use of Java Applets to transmit data, would have been an obvious modification of the system disclosed by Templeton, motivated by the developers' desire to be compatible with as many operating systems as possible.

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William Titcomb whose telephone number is (703) 305-0081.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glen Burgess, can be reached on (703) 305-4792. The facsimile number for this Group is (703) 308-5357. Any inquiry of a general nature or relating to the status of this

application or proceeding should be directed to the Group's Receptionist whose telephone number is (703) 305-3900.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(703) 308-9051, **(for formal communications intended for entry)**

or:

(703) 308-5357 **(for informal or draft communications please label "PROPOSED" or "DRAFT")**;

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington VA., Sixth Floor (Receptionist).

wdt

September 2, 1998

ELLIS B. RAMIREZ
PRIMARY EXAMINER